IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 30TH NOVEMBER 2007 / 9TH AGRAHAYANA 1929

CRP.No. 1257 of 2005()

O.P(EA).NO.346/2002 OF ADDL. DISTRICT COURT, ALAPPUZHA.
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REVISION PETITIONER/ IST RESPONDENT:

POWER GRID CORPORATION OF INDIA LTD.,
LOCAL OFFICE, NANGIARKULANGARA, KAYAMKULAM,
REP. BY ITS MANAGER.

BY ADV. SRI.K.P.DANDAPANI.

RESPONDENT/ PETITIONERS:

SUDHAMANI, PRIYA NIVAS (VALIYA POCHAYIL)
MAHADEVIKADU P.O. KARTHIKAPPALLY.

BY

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 30/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N. KRISHNAN, J.

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C.R.P. NO. 1257 OF 2005

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Dated this the 30th day of November, 2007.

O R D E R

This revision petition is preferred against the order of the Addl. District Judge, Alappuzha in OP(EA)346/02 whereby the Court has awarded a compensation of Rs.71,936. It can be seen from paragraph 6 of the award that the Court has relied upon the decision of this Court reported in The Court below relied upon the decision of this Court reported in ***Kumba Amma v. K.S.E.B. (2000(1) KLT 542)*** and held that the percentage to be applied is 5%. The said issue came up for consideration before the Apex Court and the Apex Court by the decision reported in ***K.S.E.B. v. Livisha (2007 (3) KLT page 1***) had remitted back the matter to the High Court for fresh disposal. The Apex Court also observed that,

> "The situs of the land, the distance between the high voltage electricity line laid thereover, the extent of the line thereon as also the fact as to whether the high voltage line passes over a small track of land or through the middle of the land and other similar relevant factors in our opinion would be determinative.

> The value of the land would also be a relevant factor. The owner of the land furthermore, in a given situation may lose his substantive right to use the property for the purpose for which the same was meant to be used. So far as the compensation in relation to fruit bearing trees are concerned the same would also depend upon the facts and circumstances of each case."

2. From the enunciated principles laid down in the decision referred to above the matter requires further consideration and additional oral and documentary evidence may be necessary for proper disposal of the matter. Therefore the order under challenge is set aside and the matter is remitted back to the learned District Judge for fresh consideration and disposal in the light of the principles enunciated by the Apex Court in the decision reported in ***2007 (3) KLT page 1***. The parties are directed to appear before the Court below on 10.1.08.

The C.R.P. is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

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